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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/500,378

12/27/2004

Heinz Focke

20605.014US

5182

25461 7590 .07/19/2007
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ATLANTA, GA 30309-3592

EXAMINER

HUYNH, LOUIS K

ART UNIT

PAPER NUMBER

3721

MAIL DATE

DELIVERY MODE

07/19/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/500,378

Applicant(s)

FOCKE ET AL.

Examiner

Louis K. Huynh

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3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 15-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Claim 1, line 5: “and peripheral folding outer tab” render the claim indefinite because the folding roller (34) only fold upper tab (presumably the claimed inner tab 27) but does not fold the lower tab (presumably the claimed outer tab 28).
- Claim 15, line 7: “in the direction of the inner tab” is indefinite because it is unclear as to what direction applicant is referring.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Focke’309 (US 5,996,309).
- With respect to claims 15 and 18, Focke’309 discloses an apparatus for producing wrapped cigarette packs that meets all of applicant's claimed subject matter; in particular, the apparatus of Focke’309 comprises a continuously rotating turret (15)

for transporting cuboid-shaped cigarette packs in a conveying direction, and a folding roller (56), wherein the folding roller (56) is configured to fold top flap (53) of a blank (11), in a transverse direction with respect to the conveying direction, over a surface (19) of the cigarette pack (12) to be wrapped with the blank (11), and wherein the surface of the folding roller (56) is in rolling contact with the blank to press the blank (11) against the cigarette pack. Note that Fig. 7 shows that the cigarette pack (12) with the blank (11) thereon is not in contact with the folding roller (56); however, the skilled artisan understands that the folder roller must contact and press the blank (11) against the cigarette pack (12) in order to retain the cigarette pack within the folding mandrel of the rotating turret (15) and to flatten the blank (11) over the cigarette pack for the folding operation of the folding web (57).

- With respect to claim 16, the folding element (56) of Focke'309 is mounted to rotate in a rotating direction at a fixed location, the cigarette pack (12) is conveyed along the conveying direction past the folding roller (56), and the conveying direction is coincide with the rotation direction of the folding roller (56) at a region where the cigarette pack contact the folding roller (Fig. 7).
- With respect to claims 17 and 18, the folding roller (56) of Focke'309 comprises four lateral portions, each portion includes folding web (57) and a convex surface that contact the cigarette pack (12) with the blank (11).
- With respect to claim 19, the folding roller (56) of Focke'309 includes a four lateral portions and four laterally directed folding web (57), wherein each of the folding web causes an upper tab (53) of a respective blank 911 to fold onto a surface (19) of a

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respective cigarette pack (12). Although the folding web (57) and the lateral portion of the folding roller do not form a round chamfer, the round chamfer does not patentably distinguish the claimed invention over the applied prior art. Furthermore, the angle formed by the folding web and the lateral portion of the folding roller can be considered as a round chamfer of finite radius.

- With respect to claim 20, the apparatus of Focke'309 further comprises a plurality of folding lever (58), each of folding lever comprises a supporting leg for folding a lower tab (54) of the blank (11); wherein a respective folding web (57) coordinates with one of the folding lever (58) a lower tab (54) of a respective blank (11) onto the an upper tab (53) of the respective blank (11) (col. 5, lines 31-37).

Response to Arguments

5. Applicant's arguments with respect to the new claims 15-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

7. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

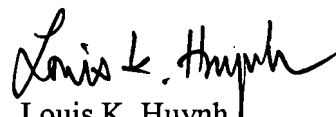
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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis K. Huynh whose telephone number is 571-272-4462. The examiner can normally be reached on M-F from 8:00AM to 3:00PM.

9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Louis K. Huynh
Primary Examiner
Art Unit 3721

July 13, 2007